

Revenue Laws

January 5, 2011

Present-Use Value Ownership

David Baker

Director

Property Tax Division

N.C. Department of Revenue

Introduction

- Generally, all property in North Carolina is valued at its **market value**.
- **Present-use value (PUV)** is the value of land in its current use as agricultural land, horticultural land, or forestland based solely on its ability to produce income and assuming an average level of management.

Introduction

- **Deferred taxes** are the difference in taxes between the market value and the present-use value.

Classifications

- Agricultural Land
- Horticultural Land
- Forestland

Four Tests

- Ownership
- Size
- Income
- Sound Management

“Individually Owned”

- All property qualifying for present-use value must be “individually owned.”
- Originally, this meant that only individuals could qualify, but the term has been periodically expanded by the General Assembly to include other forms of ownership, such as business entities and trusts.

Qualifying Forms of Ownership

- There are four categories of qualifying owners:
 - Individuals
 - Certain Tenants in Common
 - Certain Business Entities
 - Certain Trusts and Testamentary Trusts

Qualifying Forms of Ownership

- Individuals
 - These are properties owned in a person's actual name.
 - Properties owned by husband and wife as tenants by the entirety fall into this category.

Qualifying Forms of Ownership

- Tenancy in Common
 - Tenants in common is a form of ownership where multiple owners can own undivided interests in real property.
 - A tenancy in common can qualify for present-use value only if each tenant would qualify as an owner if the tenant were the sole owner.

Qualifying Forms of Ownership

- Business Entities are:
 - limited liability companies,
 - general partnerships,
 - limited partnerships, and
 - corporations.

Qualifying Forms of Ownership

- Business Entity Requirements
 1. A business entity must have agriculture, horticulture, or forestry as its principal business.

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)
 2. All members of the business entity must be individuals, either directly or indirectly.

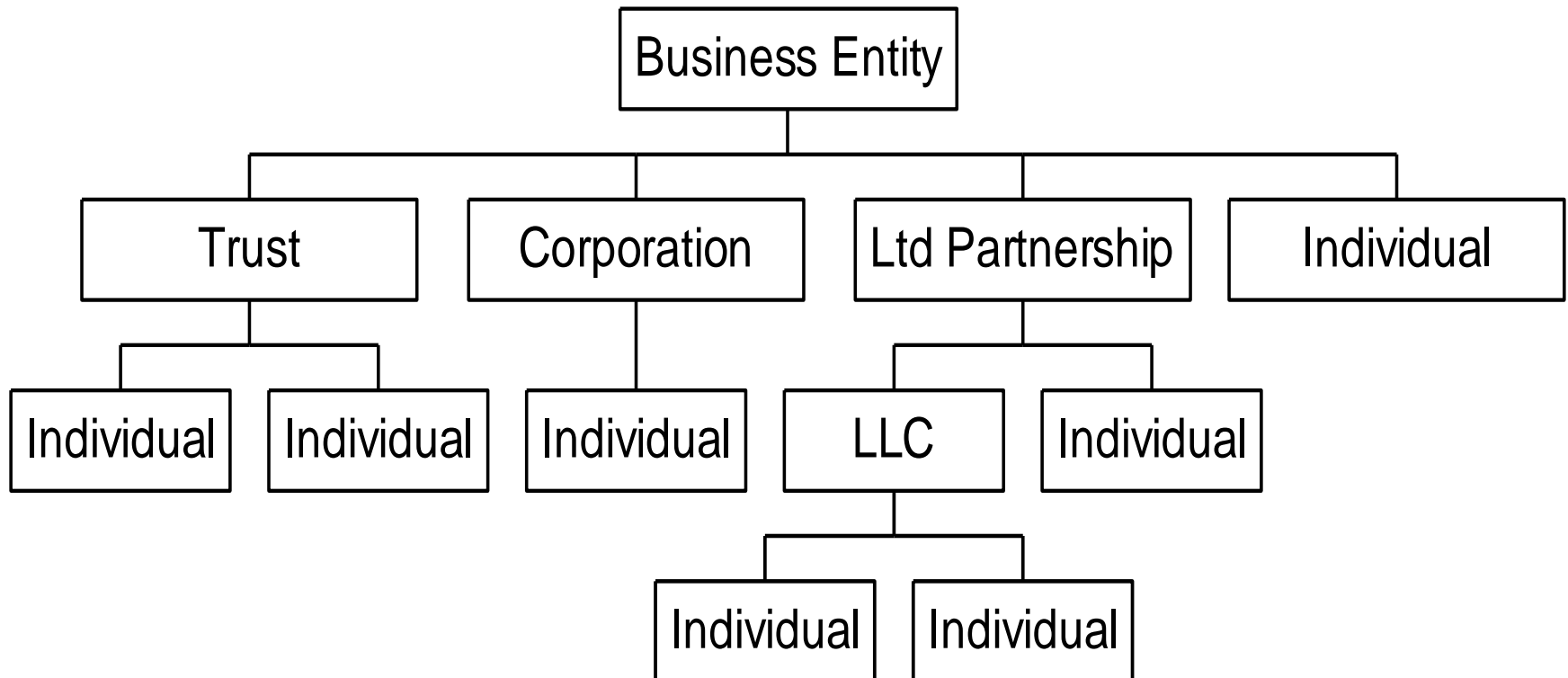
Directly or indirectly—All interest in a business entity is ultimately owned by individuals, if you look far enough down the ownership structure. Essentially, you are “looking through” all of the intermediate ownerships to identify the individual level of ownership.

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)
 3. All individual members must be actively engaged in the principal business of the entity **or** be related to an individual member who is actively engaged in the principal business of the entity.

Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)



Qualifying Forms of Ownership

- Business Entity Requirements (cont'd)
 4. A business entity cannot be a corporation whose shares are publicly traded. Neither can any of its members be corporations whose shares are publicly traded.

Qualifying Forms of Ownership

- Business Entities—Exception for Family Business Entities
 - If all members of the business entity are related to each other, the business entity may lease the land out to a tenant farmer to farm the land and, by statutory definition, the business entity can meet the principal business and actively engaged requirements. Otherwise, business entities are not allowed to lease the land out to a tenant farmer.

Qualifying Forms of Ownership

- Trusts
 - Must be created by an individual who transferred the land to the trust.
 - Each beneficiary must be an individual, either directly or indirectly, who is either the creator of the trust or a relative of the creator of the trust. The “directly or indirectly” principal requires “looking through” all of the intermediate ownerships to identify the individual level of beneficial interest.

Qualifying Forms of Ownership

- Testamentary Trusts
 - Must be created by an individual who transferred the land to the trust.
 - Land must have qualified for classification in the hands of the individual prior to transfer to the trust.
 - At the time of the creator's death, the creator had no relatives.
 - Trust income, less reasonable administrative expenses, is used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes.

Requirements for Qualifying Owners

- All tracts owned by qualifying owners must meet either the Standard Ownership Requirements...

OR

- ...meet one of the Two Exceptions to the Standard Ownership Requirements.

Requirements for Qualifying Owners

- Standard Requirements—Individuals
 - If owned by an individual, the property must meet one of these requirements:
 1. The property is the owner's place of residence as of January 1.

Requirements for Qualifying Owners

- Standard Requirements—Individuals
 2. The property has been owned by the current owner or a relative of the current owner for the four full years preceding January 1 of the year for which application is made.

Requirements for **Qualifying Owners**

- **Standard Requirements—Business Entities**
 - If the current owner is a business entity, the property must have been owned by the business entity or by one or more of the members of the business entity for the four full years preceding January 1 of the year for which application is made.

Requirements for Qualifying Owners

- Standard Requirements—Trusts
 - If the current owner is a trust, the property must have been owned by the trust or by one or more of the creators of the trust for the four full years preceding January 1 of the year for which application is made.

Requirements for Qualifying Owners

- Two Exceptions to the Standard Requirements for Qualifying Owners:
 1. Exception for Continued Use
 2. Exception for Expansion of Existing Unit

Requirements for Qualifying Owners

- Exception for Continued Use
 - This exception allows a qualifying owner to immediately qualify without having to meet the Standard Ownership Requirements if all of the following conditions are met:

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)
 1. The land was appraised at its present-use value at the time title to the land passed to the new owner.
 2. The new owner will continue to use the land for the purposes it was classified for appraisal at its present-use value under the previous ownership.

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)
 3. The land will continue to meet all the applicable size requirements. If the new owner does not own any other land in present-use value, the land must be able to meet the size requirements for an initial qualifying tract. If the new owner already has a qualifying tract of the same classification in use value, the transferred land may be less than the minimum initial required acreage if the land can properly be considered an additional tract of the existing farm unit.

Requirements for Qualifying Owners

- Exception for Continued Use (cont'd)
 4. The new owner must file an application for present-use value within 60 days of the date of transfer. Untimely applications may be filed and approved under certain conditions.
 5. The new owner certifies that they accept liability for any deferred taxes that exist on the property.

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit
 - This exception for expansion of an existing farm unit is designed to allow those property owners who already have qualifying property under the present-use value program to expand their farm and immediately qualify the new land for present-use value classification without having to meet the Standard Ownership Requirements.

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
 - This exception only applies to property that was **not** appraised at present-use value at the time of transfer. If the property was not in present-use value or the previous owner requested removal from the program, the option for immediate qualification for year of transfer under the Exception for Continued Use will not be an option since the property must be in present-use value at the time of transfer under that exception.

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
 - Under the provisions for Exception for Expansion of Existing Unit, the new owner may still immediately qualify the land for the next year if all of the following conditions are met:

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
 1. At the time of transfer, the new owner owned other land already in present-use value.
 2. At the time of transfer, the land was not appraised at its present-use value.
 3. At the time of transfer, the land being transferred was being used for the same purpose as the land owned by the new owner that is already in present-use value.

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
 4. At the time of transfer, the land being transferred was eligible for present-use value with regard to production and sound management requirements. Since this exception applies to the expansion of an existing farm unit only, the initial size requirements would not need to be applied to the additional tract being transferred.

Requirements for Qualifying Owners

- Exception for Expansion of Existing Unit (cont'd)
 5. The new owner must timely file a new application during the next listing period, typically the month of January. Since land attempting to qualify under this exception is not in present-use value at the time of transfer, the land will need to qualify under an initial application. An initial application for present-use value should be filed during the regular listing period of the next tax year.